

# St. John's Law Review

---

Volume 7  
Number 1 *Volume 7, December 1932, Number 1*

---

Article 43

June 2014

## Carmody on Practice (Book Review)

Charles E. Russell

Follow this and additional works at: <https://scholarship.law.stjohns.edu/lawreview>

---

### Recommended Citation

Russell, Charles E. (1932) "Carmody on Practice (Book Review)," *St. John's Law Review*: Vol. 7 : No. 1 , Article 43.

Available at: <https://scholarship.law.stjohns.edu/lawreview/vol7/iss1/43>

This Book Review is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact [selbyc@stjohns.edu](mailto:selbyc@stjohns.edu).

complaint; but convenience and surface similarities furnish ample excuse for the present arrangement. Within five years, the number of decided cases in each field will settle the problem by compelling careful selection and condensation to limit the law of each subject to a single volume of usable size.

Part I of the cases is composed of eleven chapters covering various aspects of aviation law. This division is sensible and has been largely used by the reviewer for two years in teaching the subject, with favorable results. The chapter on airspace rights would present a better picture of the present status of thought on the subject if the case of *Smith v. New England Aircraft Co.*, 170 N. E. 385, and the decision of the U. S. District Court in *Swetland v. Curtiss Airports Corp.*, 41 F. (2d) 929, were reported in full text.

Part II consists of thirteen chapters dealing with radio law and procedure. The outline employed has been used, with some variation, in the classroom with satisfactory results. The new chapter on Licenses would perhaps be more effective if a copy of the official Rules and Regulations governing procedure by the Federal Radio Commission were included in the Appendix.

The inclusion of foreign decisions adds interest to a study of the American decisions and offers an opportunity for comparison of domestic and European law as applied to aviation and radio.

Professor Zollmann has exercised great care in listing analogous cases, and pertinent citations from law reviews, and other publications more or less professional in character. These references will afford great comfort to teacher and student alike in the study of particular problems in aviation law, and in radio law as well.

On the whole, the new edition is an excellent piece of work and deserves unqualified commendation.

JAMES J. HAYDEN.

Catholic University Law School,  
Washington, D. C.

---

CARMODY ON PRACTICE. Edited by B. G. Bonomi. New York: Clark Boardman Co., 1932, vol. 4, pp. XV, 3471.

The latest volume of this interesting practice series is devoted wholly to the subject of trials. Beginning with the matter of selection of proper place and tribunal of trial, the work deals copiously with the various steps leading up to the trial of an issue. The increasing practice of examinations before trial and of discovery and inspection are amply developed and clearly explained. So also as to the subject of change of venue and the methods for obtaining a preference of trial in the various city counties as well as the other districts, both of which are fully discussed. The various rules and practice incident to the conduct of a trial are completely covered. A chapter dealing with motions during the course of the trial seems of a special value and well merits a careful reading even by accomplished trial counsel or experienced judge. Trials of non-jury

causes and also those by a referee are the subject of respective chapters of equal merit with the subjects already mentioned. Seventy-nine pages alone are devoted to motions for new trials, dealing with those before the trial judge, at Special Term and in the Appellate Court. As in the preceding volumes of this set, each subject is illustrated by an appropriate form of pleading where such be possible. This volume contains the same admirable footnotes and citations of authority as did its predecessors. Like them it is couched in language that is easily read and as readily to be understood by the law student as the more experienced legalistic mind. It constitutes a contribution of real worth to the subject of which it treats.

CHARLES E. RUSSELL.

New York City.

---

## BOOK NOTES

CONVICTING THE INNOCENT. By Edwin M. Borchard, with the collaboration of E. Russell Lutz. New Haven: Yale University Press, 1932, pp. XXIX, 421.

In view of the agitation created by Harriet Beecher Stowe's "Uncle Tom's Cabin," which some historians credit with the Emancipation Proclamation, and Charles Dickens' novels dealing with the English debtors' prisons and the subsequent abolition of such prisons, it is more than probable that the proposals outlined by Professor Borchard in this book will be eagerly used as a tocsin by political office-seekers throughout the country within the next few years. There is undoubtedly a powerful move of liberal influence sweeping the legislative leaders before it, and when as in this instance such renowned liberals as Felix Frankfurter and John H. Wigmore lend their support, the probabilities of its eventual adoption as a legal recourse are greatly increased.

Professor Borchard presents this proposition: "The state must necessarily prosecute persons legitimately suspected of crime; but when it is discovered after conviction that the wrong man was condemned, the least the state can do to right this essentially irreparable injury is to reimburse the innocent victim, by an appropriate indemnity, for the loss and damage suffered. European countries have long recognized that such indemnity is a public obligation. Federal and state governments in the United States ought to adopt the same policy, instead of merely releasing the innocent prisoner from custody by pardoning him for a crime he never committed and without any admission of error or public vindication of his character." Some states do have such laws, but the majority do not. Whether one approves of such indemnification depends on one's philosophy of the relation of law to society, and on such a subject libraries can be written; it will suffice this reviewer to say that he is entirely in accord with Professor Borchard's proposal, but not because of the evidence presented in the sixty-five cases collated in this book.

Three of these sixty-five cases (two English and one Scotch) are taken from the Reports of foreign countries, and severely weaken the authors' evi-